

Appl. No. : 10/695,269  
Filed : October 28, 2003

## COMMENTS

### Substitute Amendment

In response to the Notice of December 6, 2006 regarding the “not fully responsive” Amendment filed on September 25, 2006 and the Office Action mailed March 24, 2006, Applicant respectfully submits the following **Substitute Amendment**. In the Notice of December 6, 2006, it was not clear to Applicant whether the Amendment filed on September 25, 2006 was entered. Accordingly, this **Substitute Amendment** is intended to substitute the Amendment filed on September 25, 2006.

### Claim rejections

Claims 37-39, 41, 43 and 44 stand rejected under 35 U.S.C. 102(a) or (e) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Tasaki (USPN 6,149,975). Claim 40 stands rejected under 35 U.S.C. 103(a) as obvious over Tasaki in view of Soininen (WO/96/17106). Claims 37, 40, 41, 43 and 44 stand rejected under 35 U.S.C. 102(a) or (e) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Tomosawa (JP-06-232048). Claims 37 and 40-44 stand rejected as obvious over Tomosawa in view of Horsky, Kikuchi, or Howson. Applicant respectfully disagrees with the rejection of these claims. Claims 38 and 39 stand rejected as obvious over Tomosawa in view Horsky, Kikuchi, or Howson and in further view of Tasaki. Claim 45 stands rejected for the reasons set forth in the rejection of Claim 37 and further in view of Guellich (2,378,476). Claim 40 stands rejected for the reasons set forth in the rejection of Claim 37 and further in view of Soininen. Claims 37, 38, 41, 43 and 44 stand rejected as under 35 U.S.C. 102(a) or (e) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Baxter (USPN 5,803,976). Claims 37-39 and 41-45 stand rejected as being unpatentable over Baxter in view of Witzman, Smith and Guellich.

Applicant respectfully disagrees with the rejection of these claims. Nevertheless, to advance prosecution, Applicant has amended Claim 37 as outlined below. Applicant reserves the right to pursue Claims 37-45 in their original or similar form in a continuing application.

As amended, Claim 37 recites, in part, an assembly that comprises “a first container having an opening and containing liquid or solid reactant matter; a lid configured to cover

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the opening of said first container; a second container having a gas tight container wall separate from the lid, the gas container wall enclosing the first container and defining a gas space around the first container and above the lid."

In contrast, Tasaki discloses a dish, which is positioned on a porous plate 3, within a container. *See Col. 3, lines 35-50.* Tasaki does not disclose, teach or suggest placing a lid on the dish and a second container having a gas tight container wall separate from the lid, the gas container wall enclosing the first container and defining a gas space around the first container and above the lid." In addition, there is no motivation to modify the dish disclosed by Tasaki such that it would include a lid. Specifically, Tasaki discloses a dish in which a powder of an organic potassium complex is positioned. *Id.* Before use, this powder is heated to a temperature that is higher than the melting point of the powder. *See Col. 3, lines 45-50.* The powder is then cooled. *Id.* This causes the powder to form a solidified body 6 in the form of a plate or film. *Id.* Thus, there is no motivation to add a lid to the container 2 because a solid mass is stored on the container 2.

With respect to the second primary reference, Tomosawa, this reference also does not disclose a lid that is separate from the gas tight container wall of the second container. Moreover, it would not be obvious to modify Tomosawa to have such a wall because the inlets and outlets 10, 12 in the side wall of the container are configured to provide parallel flow over the solid reactant.

With respect to the third primary reference, Baxter, this reference again does not disclose a lid that is separate from the gas tight container wall of the second container. As with Tomosawa, there is no motivation to modify Baxter to have such a wall because the outlets are configured to provide specific flow pattern that would be altered by providing a separate lid.

For at least the reasons set forth above, Applicants submits that the pending claims, as amended, are in condition for allowance.

**Additional Arguments in Response to December 6, 2006 Notice**

Claims 37 and 40-44 stand rejected as being unpatentable over Tomosawa taken in view of Horsky, Kikuchi or Howson. Clams 37-39 and 41-45 stand rejected as being unpatentable over Baxter taken in view of Witzman, Smith and Guellich.

With respect to the combination with Tomosawa, as noted above, Tomosawa does not disclose a lid that is separate from the gas tight container wall of the second container.

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Moreover, it would not be obvious to modify Tomosawa to have such a wall because the inlets and outlets 10, 12 in the side wall of the container are configured to provide parallel flow over the solid reactant. With respect to the secondary references, Horsky discloses a wire mesh 71 over a crucible 52. Kikuchi discloses a wool substance above the material 5. Howson discloses using glass wool "to prevent spitting." However, Applicant respectfully submits that the one of ordinary skill in the art would not be motivated to combine the "filters" of these secondary references with Tomosawa because to do so would alter the parallel flow desire by Tomosawa.

With respect to the third primary reference, Baxter, this reference again does not disclose a lid that is separate from the gas tight container wall of the second container. As with Tomosawa, there is no motivation to modify Baxter to have such a wall because the outlets are configured to provide specific flow pattern that would be altered by providing a separate lid. That is, the five outlet nozzles 29 are arranged around the drum and terminate in an accurate surface that is substantially parallel to the curved surface. The Examiner argues that it would be obvious to use the perforated lid of Witzman, Smith or Guellich. However, as noted, one of ordinary skill in the art would not be motivated to make such a combination because such a perforated lid would alter the flow pattern that Baxter seeks to achieve.

For at least the reasons set forth above, Applicants submits that the pending claims, as amended, are in condition for allowance.

#### CONCLUSION

For the foregoing reasons, it is respectfully submitted that the rejections set forth in the outstanding Office Action are inapplicable to the present claims. Accordingly, early issuance of a Notice of Allowance is most earnestly solicited.

The undersigned has made a good faith effort to respond to all of the rejections in the case and to place the claims in condition for immediate allowance. Nevertheless, if any undeveloped issues remain or if any issues require clarification, the Examiner is respectfully requested to call Applicant's attorney in order to resolve such issue promptly.

Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1410.

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Respectfully submitted,

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